

House Bill 550

By: Representatives Willard of the 49th, Buckner of the 130th, Geisinger of the 48th, Barnard of the 166th, Coleman of the 97th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the "Georgia Water Quality Control Act," so as to change certain provisions relating to powers and duties of the Board of Natural Resources and director of the Environmental Protection Division as to control of water pollution and surface-water use generally; to provide for fees for site specific National Pollution Discharge Elimination System permits and site specific land application system permits; to provide for related enforcement efforts; to provide for subsequent fee reductions for government entities which paid certain regulatory fees related to environmental protection programs of the Department of Natural Resources in cases where the General Assembly did not appropriate funds to such department in amounts greater than or equal to the collective amount of such fees for purposes of administering such programs; to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, and computation of and exemptions from income taxes, so as to provide for income tax credits to certain persons who paid certain regulatory fees related to environmental protection programs of the Department of Natural Resources in cases where the General Assembly did not appropriate funds to such department in amounts greater than or equal to the collective amount of such fees for purposes of administering such programs; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the "Georgia Water Quality Control Act," is amended in subsection (a) of Code Section 12-5-23, relating to powers and duties of the Board of Natural Resources and director of the Environmental Protection Division as to control of water pollution and surface-water use generally, by striking "and" at the end of paragraph (4), by striking the period and inserting in lieu thereof "; and" at the end of paragraph (5), and by inserting a new paragraph to read as follows:

“(6)(A) By December 31, 2005, promulgate rules and regulations that establish a scaled system of permit application fees and annual fees for site specific National Pollution Discharge Elimination System permits and site specific land application system permits. The amounts of such fees shall increase in direct correlation with the relative detriment, hazard, or toxicity of the pollutant discharge or land application and may be based upon the type or class and amount of such pollutant discharge or land application.

(B) The maximum permit application fees or annual fees established by the board under this paragraph shall not exceed:

(i) For each municipal, county, or local government authority facility--minor source,
\$7,000.00;

(ii) For each municipal, county, or local government authority facility--major source,
\$10,000.00;

(iii) For each private industrial or commercial facility--minor source, \$10,000.00; and

(iv) For each private industrial or commercial facility--major source, \$12,000.00."

SECTION 2.

Said article is further amended in Code Section 12-5-23, relating to powers and duties of the Board of Natural Resources and director of the Environmental Protection Division as to control of water pollution and surface-water use generally, by striking paragraph (15) of subsection (c) and inserting in lieu thereof the following:

“(15) Perform any and all acts and exercise all incidental powers necessary to carry out the purposes and requirements of this article and of the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., relating to this state’s participation in the National Pollutant Discharge Elimination System established under that act and shall administer the fee ~~program~~ programs established by the board pursuant to ~~paragraph (5)~~ paragraphs (5) and (6) of subsection (a) of this Code section;”

SECTION 3.

Said article is further amended by adding a new Code section to read as follows:

"12-5-38.2.

(a) Not later than July 31 of each year, the names and addresses of all government entities from which fees were collected by the department pursuant to division (b)(6)(B)(i) or (b)(6)(B)(ii) of Code Section 12-5-23 during the most recently concluded fiscal year and the amount of such fees paid by each such entity, the total amount of such fees collected during the most recently concluded fiscal year, and the total amount of funds appropriated to the department for purposes of administration and enforcement efforts relative to a program for specific National Pollution Discharge Elimination System permits issued to

government entities and site specific land application system permits issued to government entities for the most recently concluded fiscal year shall be published by the department for purposes of determining the amounts of fee reductions, if any, for which government entities may be eligible under this Code section.

(b) If the total amount of collected fees exceeds the total amount of appropriated funds as reported under subsection (a) of this Code section, then there shall be a fee reduction for each government entity which paid a fee pursuant to division (b)(6)(B)(i) or (b)(6)(B)(ii) of Code Section 12-5-23 during the fiscal year for which collected fees were reported under subsection (a) of this Code section. Such fee reduction shall apply to fees due under division (b)(6)(B)(i) or (b)(6)(B)(ii) of Code Section 12-5-23 during the fiscal year immediately subsequent to the fiscal year for which collected fees were reported under subsection (a) of this Code section.

(c) The combined total amount of fee reductions that shall apply to all eligible government entities during the subsequent fiscal year shall be equivalent to the amount, if any, by which total collected fees exceeded total appropriated funds as reported under subsection (a) of this Code section. The amount of such fee reduction that shall apply to any government entity shall be a prorated share of such difference, based upon the amount of fees collected from the government entity under division (b)(6)(B)(i) or (b)(6)(B)(ii) of Code Section 12-5-23 during the fiscal year reported under subsection (a) of this Code section as a percentage of the total of such fees collected from all government entities during the fiscal year reported under subsection (a) of this Code section. Any unused fee reduction shall not be allowed to be carried forward to apply to the succeeding years' fee liability of such government entity. No such fee reduction shall be allowed against prior years' fee liability of any government entity.

(d) The board shall promulgate such rules and regulations as are necessary and appropriate to implement and administer this Code section."

SECTION 4.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, and computation of and exemptions from income taxes, is amended by adding a new Code section to read as follows:

"48-7-40.26.

(a) Not later than July 31 of each year, the names and addresses of all persons from whom fees were collected by the Department of Natural Resources pursuant to division (b)(6)(B)(iii) or (b)(6)(B)(iv) of Code Section 12-5-23 during the most recently concluded fiscal year and the amount of such fees paid by each such person, the total amount of such fees collected during the most recently concluded fiscal year, and the total amount of funds

1 appropriated to the Department of Natural Resources for purposes of administration and
2 enforcement efforts relative to a program for specific National Pollution Discharge
3 Elimination System permits issued to nongovernment entities and site specific land
4 application system permits issued to nongovernment entities for the most recently
5 concluded fiscal year shall be published and reported in writing to the department by the
6 Department of Natural Resources for purposes of determining the amounts of income tax
7 credits, if any, that may be claimed under this Code section.

8 (b) If the total amount of collected fees exceeds the total amount of appropriated funds as
9 reported under subsection (a) of this Code section, then there shall be an income tax credit
10 which may be claimed by each taxpayer which paid a fee pursuant to division (b)(6)(B)(iii)
11 or (b)(6)(B)(iv) of Code Section 12-5-23 during the fiscal year for which collected fees
12 were reported under subsection (a) of this Code section. Such tax credit may be claimed
13 for the most recent taxable year ending on or after the conclusion of the fiscal year for
14 which collected fees were reported under subsection (a) of this Code section.

15 (c) The combined total amount of tax credits that may be claimed by all eligible taxpayers
16 for such taxable year shall be equivalent to the amount, if any, by which total collected fees
17 exceeded total appropriated funds as reported under subsection (a) of this Code section.
18 The amount of such tax credit that may be claimed by any person shall be a prorated share
19 of such difference, based upon the amount of fees collected from the taxpayer under
20 division (b)(6)(B)(iii) or (b)(6)(B)(iv) of Code Section 12-5-23 during the fiscal year
21 reported under subsection (a) of this Code section as a percentage of the total of such fees
22 collected from all persons during the fiscal year reported under subsection (a) of this Code
23 section; provided, however, that in no event shall the amount of tax credit provided any
24 person by this Code section exceed the income tax liability of such person. Any unused tax
25 credit shall not be allowed to be carried forward to apply to the succeeding years' tax
26 liability of such person. No such tax credit shall be allowed against prior years' tax
27 liability of any person.

28 (d) The commissioner shall promulgate such rules and regulations as are necessary and
29 appropriate to implement and administer this Code section."

30 SECTION 5.

31 This Act shall become effective on July 1, 2006; except that Sections 3 and 4 of this Act shall
32 become effective on July 1, 2007.

33 SECTION 6.

34 All laws and parts of laws in conflict with this Act are repealed.